

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

INTERNATIONAL UNION OF)	
OPERATING ENGINEERS LOCAL 98)	
HEALTH AND WELFARE FUND,)	
ET AL.,)	
Plaintiffs)	
)	
v.)	C.A. No. 12-cv-30192-MAP
)	
S&R CORPORATION,)	
Defendant)	

ORDER RE: FURTHER PROCEEDINGS

March 3, 2014

PONSOR, U.S.D.J.

Counsel appeared before this court on December 16, 2013 for argument on Defendant's Motion to Stay (Dkt. No. 50), and on Plaintiffs' pending Motion for Partial Summary Judgment (Dkt. No. 31).

Following the hearing, the court issued a Scheduling Order (Dkt. No. 60), requiring the parties to submit a joint status report by January 13, 2014 regarding negotiations regarding possible resolution. In addition, the court ordered counsel to submit by January 13, 2014 a proposal to "explore the position of management trustees either through affidavits or depositions." As the court noted at that time, the goal of the process was to address "the question of whether the current mediation is designed to resolve

disagreements about past obligations to make disclosures during audits, or whether it is only directed to the question of future audits." Dkt. No. 60 at ¶ 2.

The court has now been informed that the negotiations have not resulted in any progress towards resolution. With this in mind, the court orders as follows:

1. The Motion for Partial Summary Judgment (Dkt. No. 31) is hereby DENIED without prejudice.
2. The Motion to Stay (Dkt. No. 50) is hereby DENIED without prejudice.
3. Counsel will have until April 4, 2014 to complete the depositions of the two management trustees at the September 25, 2013 meeting in which Plaintiffs allege that the trustees agreed to submit the "audit scope" issue to arbitration. Defendant's counsel will take the depositions of these two trustees, Callahan and Tierney, on or before April 4, 2014, and Plaintiffs' counsel will defend the depositions. No further additional discovery will be permitted.
4. Plaintiffs may thereafter file a renewed Motion for Partial Summary Judgment on or before May 5, 2014, and Defendant may oppose the motion by May 26, 2014. The court will thereafter either rule on the motion on the papers, or will set it for argument.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge